

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMES WILLIAM TOWNER,
Plaintiff,
vs

9:08-CV-47

LAPE, Superintendent; JOHN DOE, Dep. of
Security; B. DONNELLY, Correction Officer;
and McINTYRE, Correction Officer,

Defendants.

APPEARANCES:

JAMES WILLIAM TOWNER
Plaintiff, Pro Se
99-A-4878
Attica Correctional Facility
Box 149
Attica, NY 14011

OF COUNSEL:

HON. ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
Department of Law
The Capitol
Albany, New York 12224

RICHARD LOMBARDO, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, James William Towner, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated November 19, 2008, the Honorable David R. Homer, United States Magistrate Judge, recommended that defendants' motion to

dismiss be granted and the complaint be dismissed against defendant Lape in its entirety.

The plaintiff has filed timely objections to the report-recommendation.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Homer, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

Accordingly, it is

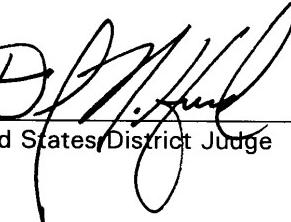
ORDERED that

1. Defendants' motion to dismiss is GRANTED;

2. The complaint is DISMISSED as against defendant Lape, Superintendent, in its entirety.

IT IS SO ORDERED.

Dated: January 8, 2009
Utica, New York.



United States District Judge